

DAVIS POLK & WARDWELL

450 LEXINGTON AVENUE
NEW YORK, NY 10017

212 450 4000
FAX 212 450 3800

MENLO PARK
WASHINGTON, D.C.
LONDON
PARIS
FRANKFURT
MADRID
TOKYO
BEIJING
HONG KONG

6/18/08
WILLIAM MILLER
212 450 4815
WILLIAM.MILLER@DPW.COM

ENDORSED
CASE 12

Application granted for
good cause shown. The
parties will be allowed the
time to conduct the
deposition.

June 13, 2008

WJW
6/18/08

Re: Yu G. Ke, et al. v. Saigon Grill, Inc., et al. (07-CV-2329)

The Honorable Michael H. Dolinger
United States Magistrate Judge
United States District Court for
the Southern District of New York
500 Pearl Street, Room 1670
New York, New York 10007

JUN 16 2008

Dear Judge Dolinger:

My firm, along with the Asian American Legal Defense and Education Fund, represents Plaintiffs in the above-referenced matter. Pursuant to Your Honor's instruction, we write to request the Court's permission to conduct a video deposition of our client Shu Jin Chen and to submit Ms. Chen's deposition testimony at the trial in lieu of testimony. Defendants have refused to consent to this proposal.

Ms. Chen currently resides in the Fujian province of China. In addition to the substantial financial burden, immigration issues prevent Ms. Chen from returning to the United States to attend the trial in the above-referenced matter. Due to Ms. Chen's hardship, we propose that Plaintiffs depose Ms. Chen subject to cross examination by Defendants via video conference at Plaintiffs' expense. Ms. Chen and a translator would be at my firm's office in Beijing, China. A court reporter would be present with counsel for Plaintiffs and Defendants.

Courts in this district have recognized there is no "absolute rule" as to the location of the deposition of a nonresident plaintiff. See Normande v. Grippo, 01 Civ. 7441 (JSR) (THK), 2002 U.S. Dist. LEXIS 501, *3-4 (S.D.N.Y. Jan. 14, 2002). A plaintiff need not be deposed in the litigation district if there is a showing of "good cause." Id. at *4. Courts have found good cause based on a showing of hardship. See, e.g., Abdullah v. Sheridan Square Press, 154 F.R.D.

Hon. Michael H. Dolinger

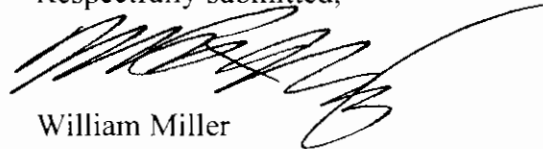
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591, 592–94 (S.D.N.Y. 1994) (requiring defendant to travel to London to take plaintiff's deposition where plaintiff would face prejudice with respect to an asylum application in the United Kingdom if he left the country).

Given the hardship Ms. Chen faces in returning to the United States and the option of conducting a deposition "by telephone or other remote electronic means" pursuant to Rule 30(b)(7) of the Federal Rules of Civil Procedure, Plaintiffs respectfully request the Court to allow Plaintiff Shu Jin Chen to be deposed in the manner described above, the transcript of which would be submitted to the Court in lieu of testimony at trial, as this may be her only opportunity to vindicate her federally recognized claim.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'William Miller', is written over the typed name.

William Miller

cc (by facsimile): Michael Weisberg, Esq.
Kenneth Kimerling, Esq.,

By Hand Delivery